

sanctuary, guarded, not by armies, not by the police even but by the law, and guarded as securely, though built of laths and plaster, as if it was of granite or of iron. Every man's home is guarded by the genius of the law.

There is no law which prohibits anybody from giving such an entertainment as was given at Brown's that night, unless it be in the imagination of McDonald. The police had no right to go in there. McDonald even had no right to rap at that door and ask, "Is this a pay party or a cake walk?" He had no right to demand a permit if it was a pay party and to arrest if it was not shown. This may as well be known, that these people may not be disturbed in this way again. And also that no language will justify a policeman in jerking a man should be known. The speaker and his family have been annoyed by just such parties, but he did not, like Brown's neighbor, set the police on them. He considered that this useful class of domestic servants have little time for enjoyment and that the police had no right to interfere.

Even if Brown had used the offensive expression to the policeman testified to by Gill, it did not justify him in turning back and resenting it. Policemen are conservators of the peace, and they should let words of oburgation and reproach pass by, remaining themselves as calm as a summer's morn. And in crossing the threshold of Brown's house he crossed the Rubicon which made him a usurper and a violator. He was a trespasser whom Brown had right to eject by the necessary force. The policeman, as a minister of the law, should have felt the stronger obligation on him as such to be a conservator of the rights of the citizen. His baton gives him no power to invade any man's premises without legal warrant. He has no arbitrary power. No man in this country has arbitrary power. The judge on the bench, you in your jury-box, the speaker, the police--no one in this country has one particle of arbitrary power. The common law centuries ago dis seized all in authority where it prevailed of all arbitrary power and has shut it out from all exercise and existence in this State and in other States.

Suppose Daniel Brown had not been stunned by the blow of the billy, and had gone into that closet to obtain the means to repel the invader of his house, and had done so and shot him down, pursued as he was, he would have been justified. The State has placed arms in the hands of the conservators of the peace of this city and consecrates their use by its authority, as has been said by the other side, but consecrates their use only for the preservation of law and order.

Mr. Knott closed at 4.30 P. M., and the jury then took the case. Court, after waiting half an hour, adjourned, and the verdict cannot be rendered until this morning.

## The Cake-Walk Homicide.

ARGUMENTS FOR THE DEFENSE AND STATE CON-  
CLUDED--THE CASE WITH THE JURY.

[Reported for the Baltimore Sun.]

The arguments in the trial of Patrick McDonald for the murder of Daniel Brown, colored, were concluded in the Criminal Court, before Judge Gilmor, yesterday, and the case given to the jury at 4.30 P. M. Court remained in session half an hour longer, when, the jury not having agreed, court was adjourned until this morning, when if agreed, the jury will give their verdict.

### RESUME OF THE CASE.

McDonald was a policeman, and his beat included Brown's dwelling, No. 41 Tyson street. On the night of 30-31st of July last he was called upon by Allen Martin, a neighbor of Brown's and owner of the house in which Brown lived, and the officer was requested to repress the noise in Brown's house from a social gathering there, and which Mr. Martin stated to the officer had prevented his sleeping up to that hour, about 1 A. M. McDonald went to the door and told Brown and others the noise must be stopped. Some irritating remarks were exchanged, the officer was indignant at what he regarded as a defiance, seized Brown by the lapel of his coat, and either pushed him back into the room or was hustled there himself, with several other colored men about him, and he struck Brown with his billy; then, as Brown staggered back into the next room, or possibly, according to the evidence of one woman, as Brown came towards him from a closet, in which satrons, &c., were kept, the policeman shot him in the head, from which he died in about half an hour. Brown's wife and about a dozen other colored men and women, who were at the party at Brown's house, were the principal witnesses for the State.

McDonald proved an excellent character for peacefulness, humanity and good conduct as a policeman. One witness, a young white man named Gill, who was then homeless and sleeping on a pile of lumber near Brown's, was aroused by the noise, and he testified that he saw a colored man, who with two others came out, strike at the policeman on the sidewalk, and a struggle ensued, which carried the officer and three colored men through the door into the house, where he heard a voice cry, "unlock that door," and speedily after heard a dull, heavy sound.

### THE PRISONER.

McDonald is a man of family, and his wife has been in attendance at court during the trial. Previous to going on the police force he was in the service of the Northern Central railroad as a fireman or engineer, where his reputation was also excellent.

McDonald sits very quietly in the prisoner's dock day after day. His glance is generally directed straight before him, but he occasionally lifts his eyes and looks at the lawyers in the case. He is a full medium-sized man, with a heavy face, and little, if any, color in it. He is decently dressed in citizens' clothes, having been deprived of his policeman's uniform and place on his committal to jail upon the finding of the coroner's jury.

### REMARKS OF MR. HEUSLER.

Mr. Heusler made the closing argument for the defense. He made an appeal to the jury to declare by their verdict the innocence of the prisoner and restore him to freedom and the arms of his wife and children. In commenting on Thomas Gill's evidence of offensive language used by Brown, and the position taken by the State that no words justify arrest, he said if that principle is to prevail, then good-bye to peace and order in the streets of this city; anarchy and chaos will come again. If an officer is to be insulted, his name and nationality linked with the most opprobrious and contemptuous epithets, and he dare not in any manner call the offender to instant account, but must stand mute; if such is to be the law for the police, then can only the most gloomy anticipations be indulged as to the future preservation of law and order in this goodly city.

Is it not a striking fact that Brown, after receiving the blow with the espanteon, staggered back to the closet in which were those iron implements of which he might have made a murderous use? That closet is the Pandora's box from which all the troubles of this case were let loose. Had Brown not gone there no fatal result would have been chronicled that night. Mr. Heusler dissected the evidence of the State skillfully and forcibly arrayed that for the defense, relying on Thomas Gill, the lumber-pile witness, as uncontradicted either by himself or any of the testimony for the State.

### REMARKS OF MR. KNOTT.

Mr. Knott closed the argument for the State. He defined murder in the first degree, and said the premeditation necessary to constitute that grade of the offense may exist but for one moment. All psychological investigation shows that the process of mental conception is instantaneous, and volition is simultaneous with it. One moment, therefore, may suffice to form the design to murder as well as a year. No definite period is laid down in the books as the time within which the design can be conceived. The question for the jury is, was there a specific intent to take life? Murder in the second degree is where the killing is done without a harbored design, but without any excuse therefor. Manslaughter is where life is taken in the heat of blood, a sudden fury, without any provocation in law therefor.

However humble a man's house is, it is his